

Ohio Background Checks for Long Term Care Facility (LTC) Direct Care Employees

(Provided as a close approximation of Ohio Policy. All information is subject to change.)

Within Ohio, a Provider must do the following:

(In accordance with Ohio Revised Code and the Ohio Administrative Code)*

A. **Obtain an employment application** wherein the candidate employee agrees to:

1. Provide proof of a current driver's license. (Record may be a reason for not allowing person to transport others.)
2. A drug test
3. Refer the individual to initiate a Background check (*item 3, below*)

B. **Perform a check** on the following seven data sources, prior to requesting a criminal background check.

A responsible entity may not hire or continue to employ an applicant or employee whose name appears in:

1. Excluded parties list (U.S. GSA)
2. List of excluded individuals and Entities, and "SAMS" list (U.S. OIG, Fraud against the Federal Gov't/Medicare and Medicaid)
3. Ohio Sex Offender Verification
4. DODD Abuser Registry Verification
5. Ohio Nurse Aide Registry (*also checks nurse aid registries in 14 other states*)
6. ODRC Inmates Database (Ohio)
7. Ohio Medicaid Provider exclusion List (Required as of July, 2019) "**Automated Registry Check System (ARCS)**". Within Ohio, the Provider has the *option* of searching each of the (above) separate data registries or may use the Ohio **ARCS** which queries all of these data registries at once, *free of charge*.

C. **Fingerprinting and the BCI check**: Require the individual to go to the nearest "Webcheck" office, where they will scan the individual's fingerprints and submit personal information for that office's electronic request to the Ohio Bureau of Criminal Investigations (BCI) for a state-run criminal background check. Most Providers pay for the cost of the fingerprinting and the BCI check. If the person has lived in Ohio for less than 5 years, the Ohio BCI will also request an FBI background check.

D. **RAPBACK Program**. Additionally, within Ohio, effective July 1, 2019 all providers of LTC facilities, after acquiring a successful criminal background check through the State Bureau of Criminal Investigations (BCI), and the hiring of the employee, is required to enter the employee into the State's **RAPBACK Program**. This Program provides continuous feedback to the employer of any employee criminal behavior, from the time of hire. Prior to becoming mandatory, RAPBACK already tracked (As of June, 2018) 139,613 Ohio employees.

Effective July 1, 2019, Ohio also clarified that a responsible entity may not employ a person who has been found eligible for intervention in lieu of conviction for a disqualifying offense.

*** Ohio Administrative Code (OAC): 5123:2-2-02: Background investigations for employment.**

(A) "The purpose of this rule is to establish standards for conducting background investigations on persons employed or seeking employment in Ohio's service delivery system for individuals with developmental disabilities.

Ohio Revised Code: 5123.081: Criminal Records Check.

State-Reported Laws and Regulations Requiring Background Checks for Home Health Agency Employees.

OAC - 3701-60-04

WHEN TO CHECK CRIMINAL RECORDS

Ohio Administrative Code:

173-9-04 Background checks for paid direct-care positions: when to check criminal records, inform applicants, charge fees, and use forms (except for the self-employed).

Required Post-hire checks are to be filed every 5th-year hiring anniversary + 30 days

POSITION	CHECK APPLICANTS (PRE-HIRE)	CHECK EMPLOYEES (POST-HIRE)
Direct-care position: Only delivers meals	Required	Not required
Direct-care position: Only has access to consumers' or individuals' personal records	Required	Not required
Direct-care position: Only provides a specified once-ever service	Required	Not required
Transportation position with a county transit system, regional transit authority, or regional transit commission.	Not required	Not required
Transportation position: other than a position with a county transit system, regional transit authority, or regional transit commission	Required	Required
All direct-care positions not listed above	Required	Required

A Second Chance. (Certificate of Qualification for Employment) There are circumstances under which a responsible entity may hire an applicant or retain an employee with a Disqualifying Offense on his or her criminal record:

- a. Exclusionary Period has passed; or
- b. Certificate of Qualification for Employment

Exclusions are imposed for a number of reasons:

Mandatory exclusions: OIG is required by law to exclude from participation in all Federal health care programs individuals and entities convicted of the following types of criminal offenses: Medicare or Medicaid fraud, as well as any other offenses related to the delivery of items or services under Medicare, Medicaid, SCHIP, or other State health care programs; patient abuse or neglect; felony convictions for other health care-related fraud, theft, or other financial misconduct; and felony convictions relating to unlawful manufacture, distribution, prescription, or dispensing of controlled substances.

Permissive exclusions: OIG has discretion to exclude individuals and entities on a number of grounds, including (but not limited to) misdemeanor convictions related to health care fraud other than Medicare or a State health program, fraud in a program (other than a health care program) funded by any Federal, State or local government agency; misdemeanor convictions relating to the unlawful manufacture, distribution, prescription, or dispensing of controlled substances; suspension, revocation, or surrender of a license to provide health care for reasons bearing on professional competence, professional performance, or financial integrity; provision of unnecessary or substandard services; submission of false or fraudulent claims to a Federal health care program; engaging in unlawful kickback arrangements; defaulting on health education loan or scholarship obligations; and controlling a sanctioned entity as an owner, officer, or managing employee.